

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

DOCUMENT CONTROL

AT RICHMOND, APRIL 8, 2008

APPLICATION OF

2008 APR -8 P 4: 00

VIRGINIA ELECTRIC AND POWER COMPANY
D/B/A DOMINION VIRGINIA POWER

CASE NO. PUE-2006-00091

For a certificate of public convenience
and necessity for facilities in Stafford County:
Garrisonville 230 kV Transmission Line
and 230 kV-34.5 kV Garrisonville Switching Substation

FINAL ORDER

On August 30, 2006, Virginia Electric and Power Company, d/b/a Dominion Virginia Power ("Dominion" or "Company") filed with the State Corporation Commission ("Commission") an Application for Approval and Certification of Electric Facilities: Garrisonville 230 kV Transmission Line and 230 kV-34.5 kV Garrisonville Switching Substation ("Application"). Dominion proposes to construct and operate a 230 kV transmission line from a point on its existing Possum Point – Fredericksburg 230 kV Line. The line would extend for approximately five miles to a new Garrisonville Switching Substation. The substation would be located in the vicinity of Shelton Shop Road and Mountain View Road.

On September 25, 2006, the Commission issued an Order for Notice and Hearing that directed Dominion to publish public notice of its Application, established a procedural schedule, set hearing dates to receive public comment and evidence, and appointed a Hearing Examiner to conduct all further proceedings.

On February 27, 2007, Dominion Virginia Power filed a Motion for Leave to File Underground Alternative Supplement, Request Department of Environmental Quality ("DEQ") Coordinated Review, Revise Procedural Schedule, and Address Notice Issues ("Motion"). The Company attached to its Motion an Underground Alternative Supplement which presented the

underground alternative as part of the Company's direct case to be considered along with its other proposals.

By Hearing Examiner's Ruling entered on March 22, 2007, Dominion's request for leave to file its Underground Alternative Supplement was granted, a revised procedural schedule was adopted, and the Company was directed to provide notice of its proposed underground transmission line alternative to the public.

The evidentiary hearing was convened as scheduled on July 11, 2007, and was completed on July 13, 2007. Stephen H. Watts, II, Esquire; Kristian Mark Dahl, Esquire; and Vishwa B. Link, Esquire, appeared on behalf of Dominion. William H. Chambliss, Esquire; and Wayne N. Smith, Esquire, appeared on behalf of the Commission's Staff ("Staff"). Michael J. Quinan, Esquire; Edward L. Petrini, Esquire; and Joseph L. Howard, Jr., Esquire, appeared on behalf of Stafford County. John W. Montgomery, Esquire; and Holly Hazard, Esquire, appeared on behalf of Towering Concerns, Inc. ("Towering Concerns"). Brian R. Greene, Esquire, appeared on behalf of Brookstone Homes at Berkshire, Inc. ("Brookstone Homes").¹ Post-hearing briefs were filed by Dominion, the Staff, Stafford County, and Towering Concerns.²

On December 12, 2007, Hearing Examiner Michael D. Thomas filed a Report that summarized the record, analyzed the evidence and issues in this proceeding, and made certain findings and recommendations ("Hearing Examiner's Report"). As related by the Hearing Examiner, the record included statements of 97 public witnesses who testified at the public hearings in Stafford County on January 25, 2007, and February 6, 2007.³ Written comments

¹ Hearing Examiner's Report at 3.

² *Id.*

³ *Id.* at 4.

were submitted by approximately 808 individuals from October 24, 2006, through May 29, 2007.⁴ The Hearing Examiner stated that of those total written comments, 799 were opposed to Dominion's proposed overhead alternative, and 9 were in favor of the overhead alternative.⁵ He further noted that the vast majority of those opposed to Dominion's overhead alternative believe the negative impacts of the line could be mitigated by undergrounding the line.⁶

The Hearing Examiner's Report included the following findings:⁷

1. The Company met its burden of establishing the need to provide additional electricity to its Garrisonville load area, and the need to provide reliable electric service to its customers;
2. The demand for electricity in the Garrisonville area would best be served by a new 230 kV transmission line running from Aquia Harbour to Garrisonville and the construction of a new Garrisonville Switching Station;
3. To the extent that DEQ's recommendations are applicable to the Company's Garrisonville project, and are not otherwise covered by a permit, law, regulation, or approval, the DEQ recommendations are reasonable;
4. Underground Option 1 is the only underground option that has the same performance characteristics as the Company's overhead alternative, and offers the same reliability and redundancy as the Company's overhead alternative;
5. The Commission should issue the Company a certificate of public convenience and necessity to construct underground Option 1 as an XLPE pilot project;
6. In the alternative, if the Commission rejects the foregoing finding, the Commission should issue the Company a certificate of public convenience and necessity to construct an overhead 230 kV transmission line on galvanized steel monopoles in the center of the right-of-way;
7. The Commission should retain its own experts and conduct a study of the impact of overhead transmission lines on real estate values and develop a methodology for use in Commission cases by which any impact could be analyzed and valued;

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.* at 57-58.

8. Dulled steel monopoles and non-reflective conductors will do little to mitigate the visual impact of an overhead transmission line and do not justify the additional expense;
9. There is no need to incur the additional cost of pulling the lead line by helicopter;
10. The Company should locate its monopoles to minimize the impact on the Austin Ridge Park, the Autumn Ridge Subdivision, as well as the athletic fields at the various schools and any other recreational areas;
11. The Company should be required to develop and file with the Commission, a detailed right-of-way clearing plan that follows Federal Energy Regulatory Commission guidelines and addresses future maintenance of the right-of-way;
12. To ensure adherence to the right-of-way clearing plan, the Commission should require the Company to have one of its foresters, or a contract forester or arborist, supervise the day-to-day operations of its clearing contractor; and
13. The Commission should advise the parties in its final order that its approval of this project as an underground pilot project in no way establishes a precedent for future transmission lines in the subject right-of-way.

On January 2, 2008, Dominion, Brookstone Homes, Towering Concerns and Stafford County filed comments on the Hearing Examiner's Report. On January 3, 2008, Rappahannock Electric Cooperative ("REC") filed a Motion to File Comments Out of Time and Comments on the Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows.

We conclude that the public convenience and necessity require construction of the proposed line and the Garrisonville Switching Substation as provided for and subject to the requirements set forth in this Final Order.

REC

We deny REC's Motion to File Comments Out of Time and therefore will not consider its late-filed comments herein. The Commission must decide this case on the evidence properly presented in the record. REC is not a party to this proceeding; REC did not file a notice of participation in accordance with the public notices provided in this case. Our consideration of REC's untimely comments would unreasonably prejudice the Company and other participants in the case, and we do not find that accepting these comments is necessary to serve the ends of justice in this proceeding.⁸ We encourage the participation of all interested persons and entities in Commission proceedings. We must, however, ensure that our procedures remain fair to the applicant and to those who participate in accordance with the Commission's orders and regulations.

Code of Virginia

Section 56-265.2 A of the Code of Virginia ("Code") provides that "[i]t shall be unlawful for any public utility to construct . . . facilities for use in public utility service . . . without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege."

Section 56-46.1 A of the Code directs the Commission to consider several factors in reviewing proposed new facilities. It provides:

Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. . . . In every proceeding under this subsection, the Commission shall receive and give consideration to

⁸ See Rule 5 VAC 5-20-10; *Application of CPV Warren, LLC, For a certificate of public convenience and necessity for electric generation facilities in Warren County, Virginia*, Case No. PUE-2002-00075, 2003 S.C.C. Ann. Rept. 365.

all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted. . . .
Additionally, the Commission (i) shall consider the effect of the proposed facility on economic development within the Commonwealth and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Section 56-46.1 B of the Code requires the Commission to: (i) ensure that notice of the proposed facilities is provided to the public, local governments, and owners of property within the transmission line's route; (ii) determine that the transmission line is needed; and (iii) determine that the proposed route will reasonably minimize adverse impact on scenic assets, historic districts, and the environment.

Section 56-46.1 C of the Code directs that "[i]n any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company."

Section 56-259 C of the Code states that "[p]rior to acquiring any easement of right-of-way, public service corporations will consider the feasibility of locating such facilities on, over, or under existing easements of right-of-way."

Section 56-46.1 E of the Code states that "[i]n the event that . . . it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed"

Section 56-46.1 F of the Code states that "[a]pproval of a transmission line . . . shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line."

Need

We find that additional transmission facilities and the Garrisonville Switching Substation are needed to serve the Garrisonville Load Area. We agree with the Hearing Examiner that the Company met its burden of establishing the need for additional facilities in its Garrisonville load area to provide reliable electric service to its customers. The Hearing Examiner also explained that without an additional source of supply, the Company would be unable to meet its projected peak demand during the summer of 2009.⁹

Proposed Facilities

We find that the demand for electricity in the Garrisonville area would best be served by a new 230 kV transmission line running from Aquia Harbour to Garrisonville and the construction of a new Garrisonville Switching Station. The Company and Staff examined and presented other alternatives to satisfy load growth in the Garrisonville area, but we find that the Company's transmission alternative reasonably addresses the need to provide additional distribution in the Garrisonville area, provide reliable electric service to its customers, and integrate the Company's 230 kV transmission system in the Northern Virginia region.

Underground Alternative

The Hearing Examiner notes that the primary issue related to the underground alternatives is the cost differential between the overhead alternative at \$14.16 million and underground Option 1 at \$82.30 million, a \$68.14 million difference.¹⁰ To address the cost and visual impact issues, the Company proposes treating the Garrisonville project as an underground XLPE pilot project, which would allow the cost to be recovered through the ratemaking process.

⁹ Hearing Examiner's Report at 50.

¹⁰ *Id.* at 54.

The Company states "[t]he prospect of gaining further experience and familiarity with the construction, operation and performance of XLPE technology through a much larger underground project . . . could justify incurring the \$68 million additional cost of underground construction for the Garrisonville Project and recovering it from the broad range of the Company's customers."¹¹ According to the Company, if the costs are apportioned across the Company's entire rate base, underground Option 1 would add approximately \$0.10 to every Dominion residential customer's monthly bill. On a percentage basis, bills would increase approximately 0.10%.¹²

We agree with the Hearing Examiner and find that the Commission should issue the Company a certificate of public convenience and necessity to construct underground Option 1 as an XLPE pilot project. The Hearing Examiner found, and the Company agreed, that "underground Option 1 is the only underground option that has the same performance characteristics as the Company's overhead alternative and offers the same redundancy and reliability as the Company's overhead alternative."¹³ We have reviewed and fully considered the alternatives proposed by the Company, Stafford County and Towering Concerns and find that the

¹¹ Dominion's January 2, 2008 Comments on Hearing Examiner's Report at 9. The approval of this project makes it the Company's second underground project using XLPE technology. In Case No. PUE-2006-00082, the Commission granted Dominion a certificate to construct and operate in Arlington County an underground transmission line of 230 kV between its Clarendon and Ballston Substations. *See Application of Virginia Electric and Power Company d/b/a Dominion Virginia Power, For a certificate of public convenience and necessity for facilities in Arlington County: Clarendon-Ballston 230 kV Transmission Line*, Case No. PUE-2006-00082, Final Order dated May 25, 2007. The Ballston-Clarendon project involves the construction of a 2,200-foot (0.41 miles) underground transmission line. According to the Hearing Examiner and other parties to the case, the Ballston-Clarendon project has many shortcomings, due primarily to the length of the transmission line, that make it incapable of providing an accurate assessment of the cost to build, operate, or maintain an XLPE 230 kV underground transmission line. Hearing Examiner's Report at 54. Dominion believes that the proposed Garrisonville transmission line has the characteristics the Company would look for in a test of XLPE cable technology. Hearing Examiner's Report at 33.

¹² Hearing Examiner's Report at 32.

¹³ *Id.* at 54; Dominion's January 2, 2008 Comments on Hearing Examiner's Report at 8.

Company's Option 1 meets its need to maintain adequate reliability of service, while satisfying the legal standards of §§ 56-265.2 A and 56-46.1 of the Code.

Finally, we emphasize that our approval of this project as an underground pilot project, and the rate treatment afforded thereto, in no way establishes a precedent for future transmission lines, either in the subject right-of-way or elsewhere.

Existing Rights-of-Way

Under § 56-46.1 of the Code, Dominion is required to provide adequate evidence that existing rights-of-way cannot adequately serve its needs. According to the Company, it acquired the right-of-way to be used for this project in the 1960s for the express purpose of constructing facilities to meet its public service obligation, namely the construction, operation and maintenance of electric transmission facilities.¹⁴ Dominion states that the existing 335-foot right-of-way between the Garrisonville Substation site and Line #252 is not only adequate, it is empty of transmission facilities and can easily accommodate the proposed facilities.¹⁵ Having concluded, pursuant to § 56-265.2 A of the Code, that the public convenience and necessity require construction of the proposed line as approved in this Final Order, we likewise conclude that the transmission line – along the existing right-of-way as ordered herein – is required by the public interest.

DEQ Recommendations

We agree with the Hearing Examiner and find that to the extent that DEQ's recommendations are applicable to the Company's Garrisonville project, and are not otherwise covered by a permit, law, regulation, or approval, the DEQ recommendations are reasonable. As

¹⁴ Dominion's January 2, 2008 Comments on Hearing Examiner's Report at 13.

¹⁵ *Id.*

a requirement of our approval herein, the Company shall comply with all applicable DEQ recommendations.¹⁶

Impact on Real Estate Values

The Hearing Examiner also addressed the potential impacts on real estate values by recommending that the Commission hire its own experts and conduct a study of the impact of the proposed overhead line on real estate values and develop a methodology for use in future Commission cases.¹⁷ Having approved this application as an underground pilot project, we do not reach and make no finding on this subject. We further note, however, that there is no statutory requirement that the Commission conduct such a study in evaluating applications for new facilities, doing so would represent a new practice for the Commission under existing precedent, and the Commission has never ruled on the relevancy or accuracy of such studies. Certainly the General Assembly can change the statute to require such studies in all cases involving applications for new facilities; current law does not.

Accordingly, IT IS ORDERED THAT:

(1) Dominion is authorized to construct and operate underground Option 1 as an XLPE pilot project for a 230 kV transmission line from Aquia Harbour to Garrisonville and a new Garrisonville Switching Substation, as provided for and subject to the requirements set forth in this Final Order.

(2) Pursuant to §§ 56-265.2, 56-46.1, and related provisions of Title 56 of the Code of Virginia, Dominion's application for a certificate of public convenience and necessity to construct its Garrisonville 230 kV transmission line, the Aquia Harbour Transition Station, and

¹⁶ The Company shall coordinate with DEQ its implementation of these recommendations.

¹⁷ Hearing Examiner's Report at 57.

the 230 kV-34.5 kV Garrisonville Switching Substation is granted as provided for and subject to the requirements set forth in this Final Order.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code, the Company is issued the following certificate of public convenience and necessity:

Certificate No. ET-88f, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in Stafford County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2006-00091; Certificate No. ET-88f will cancel Certificate No. ET-88e issued to Virginia Electric and Power Company on January 19, 1995.

(4) Within thirty (30) days from the date of this Final Order, Dominion shall file with the Commission's Division of Energy Regulation two copies of an appropriate map that shows the routing of the transmission line and substation approved herein.

(5) As a requirement of the certificate granted in this case, the transmission line and substation must be constructed and in-service by January 1, 2011; however, Dominion is granted leave to apply for an extension for good cause shown.

(6) REC's Motion to File Comments Out of Time is denied.

(7) This matter is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

A True Copy
Teste:


Clerk of the
State Corporation Commission